

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

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| IN RE: | * | |
| | * | |
| CIRCUIT CITY STORES, INC. et al. | * | Case No. 08-35653 |
| | * | |
| Debtors | * | Chapter 11 |

**COMMONWEALTH OF VIRGINIA DEPARTMENT OF TAXATION'S
OBJECTION TO CONFIRMATION**

COMES NOW, the Commonwealth of Virginia Department of Taxation, ("the Department") by Counsel, pursuant to Bankruptcy Code Section 1128(b) and for its Objection to Confirmation states:

1. The Debtor filed a bankruptcy petition seeking relief under Chapter 11 of the Bankruptcy Code on November 10, 2008.
2. The Department timely filed a Proof of Claim in this matter in the amount of \$2,223,914.45, including a priority claim in the amount of \$2,151,914.45, for sales, use and income taxes due for the reporting periods preceding the date of the order for relief.
3. The Plan does not properly provide for payment of interest on the Department's priority claim as required by 11 U.S.C. §511. Interest must be paid on the Department's claim in order for it to receive a value, as of the effective date of the Plan, of the allowed amount of such claim as required by 11 U.S.C. § 1129(a)(9)(c). The Plan attempts to impose a "Case Interest Rate" which is much lower than the rate established under

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applicable non-bankruptcy law. The statutory rate, established by *Code of Virginia* § 58.1-15 is 2% above the IRS rate established in §6621 of the Internal Revenue Code and is currently 6%.

4. The Plan should specify that payment should be sent c/o the undersigned counsel for the Department at the address listed at the end of this pleading.

5. The Plan does not provide the Department with an adequate and expedient administrative remedy in the event of default. In the event that payments are not made in accordance to the Plan provisions, the Plan should specify that the Department may proceed, without resort to the Bankruptcy Court, with the type of collection it would normally have employed in the absence of bankruptcy and should have the rights it would have had but for the debtor's bankruptcy filing.

6. The Department objects to all exculpation provisions contained in the plan to the extent that these provisions provide for exculpation of current and former employees from tax, penalty and interest liabilities administered by the Department and to the extent that these current or former employees may be considered "corporate or partnership officers" under *Code of Virginia* § 58.1-1813(B) on grounds that these individuals are not debtors in this case and there is no grounds under applicable law or jurisdiction for this Court to provide such relief .

WHEREFORE, the Department prays that the Plan proposed in this case not be confirmed, unless and until the debtor addresses the objections as raised above, and for such other and further relief, which may be deemed appropriate.

Respectfully Submitted,

COMMONWEALTH OF VIRGINIA
Department of Taxation

By: /s/ Mark K. Ames
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Objection to Confirmation was filed electronically this 10th day of November 2009 and mailed First Class to the following:

/s/ Mark Ames

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